## **Federal Acquisition Regulation**

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Providing all employees engaged in performance of the contract with a copy of the statement required by paragraph (a)(1) of this section;
- (4) Notifying all employees in writing in the statement required by subparagraph (a)(1) of this section, that as a condition of employment on a covered contract, the employee will—
- (i) Abide by the terms of the statement: and
- (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notifying the contracting officer in writing within 10 days after receiving notice under subdivision (a)(4)(ii) of this section, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the postion title of the employee;
- (6) Within 30 days after receiving notice under subparagraph (a)(4) of this section of a conviction, taking one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
- (i) Taking appropriate personnel action against such employee, up to and including termination; or
- (ii) Requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- (7) Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (a)(1) through (a)(6) of this section.
- (b) No individual shall be awarded a contract of any dollar value unless that individual agrees not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing the contract.

(c) For a contract of 30 days or more performance duration, the contractor shall comply with the provisions of paragraph (a) of this section within 30 days after contract award, unless the contracting officer agrees in writing that circumstances warrant a longer period of time to comply. Before granting such an extension, the contracting officer shall consider such factors as the number of contractor employees at the worksite, whether the contractor has or must develop a drug-free workplace program, and the number of contractor worksites. For contracts of less than 30 days performance duration, the contractor shall comply with the provisions of paragraph (a) of this section as soon as possible, but in any case, by a date prior to when performance is expected to be completed.

[54 FR 4968, Jan. 31, 1989, as amended at 55 FR 21707, May 25, 1990; 55 FR 38517, Sept. 18, 1990; 60 FR 34758, July 3, 1995; 61 FR 69292, Dec. 31, 1996]

## 23.505 Contract clause.

Except as provided in 23.501, insert the clause at 52.223-6, Drug-Free Workplace, in solicitations and contracts.

 $[68 \; \mathrm{FR} \; 28082, \; \mathrm{May} \; 22, \; 2003]$ 

## 23.506 Suspension of payments, termination of contract, and debarment and suspension actions.

- (a) After determining in writing that adequate evidence to suspect any of the causes at paragraph (d) of this section exists, the contracting officer may suspend contract payments in accordance with the procedures at 32.503–6(a)(1).
- (b) After determining in writing that any of the causes at paragraph (d) of this section exists, the contracting officer may terminate the contract for default.
- (c) Upon initiating action under paragraph (a) or (b) of this section, the contracting officer shall refer the case to the agency suspension and debarment official, in accordance with agency procedures, pursuant to subpart 9.4.
- (d) The specific causes for suspension of contract payments, termination of a contract for default, or suspension and debarment are—
- (1) The contractor has failed to comply with the requirements of the clause at 52.223-6, Drug-Free Workplace; or